

LP / MFA

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EMANUEL KELLY

Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS,
INC., et al.,

Defendants.

CIVIL ACTION

No. 10-01216

FILED

MAR 14 2011

MICHAEL E. KUNZ, Clerk
By [Signature] Dep. Clerk

MEMORANDUM ORDER

AND NOW, this 14 day of March, 2011, it is hereby **ORDERED** as follows:

On August 9, 2010, defendant World Financial Network National Bank (WFNNB) filed a motion to dismiss plaintiff's complaint. Dkt. 22. Plaintiff did not respond to WFNNB's motion to dismiss. On September 2, 2010, plaintiff and certain defendants, not including WFNNB, filed a stipulation allowing plaintiff to amend his complaint., dkt. 39, and plaintiff filed an amended complaint that same day, dkt. 40. WFNNB filed an answer to the amended complaint on September 30, 2010, dkt. 52, and has not otherwise opposed plaintiff's amended complaint. The court interprets WFNNB's actions as acquiescence to the filing of the amended complaint. Accordingly, it appearing that no party was prejudiced by the timing of the amendment, the court hereby **GRANTS**, *nunc pro tunc*, leave to amend the original complaint, Fed. R. Civ. P. 15(a)(2), and it is **ORDERED** that WFNNB's motion to dismiss plaintiff's original complaint is denied as moot.

3-16-11 e-mailed to:
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R. Cohen
M. Bigge
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BY THE COURT:

/s/ Louis H. Pollak
Pollak, J.